

ATTACHMENT B – LRP2013-00009

ORDINANCE NO. _____
Planning Commission Recommended Draft April 10, 2013

AN ORDINANCE ADDING SECTION 23.01.046 TO THE COASTAL ZONE LAND USE ORDINANCE (CZLUO), TITLE 23 OF THE COUNTY CODE REFERRING TO REASONABLE ACCOMMODATIONS. THE PURPOSE OF THE AMENDMENTS IS TO PROVIDE INDIVIDUALS WITH DISABILITY FLEXIBILITY IN THE APPLICATION OF LAND USE REGULATIONS.

SECTION 1: Chapter 23.01 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new Section 23.01.046 as follows:

23.01.046 – Reasonable Accommodation Adjustment

- a. **Purpose.** The purpose of this section is to provide a procedure for an individual with a disability to seek a reasonable accommodation in the application of this Title to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities as provided by the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, herein known as the "Acts". Reasonable accommodation means providing an individual with a disability flexibility in the application of land use regulations, including modification or exception to the requirements for siting development when necessary to eliminate regulatory barriers.
- b. **Applicability.** Any person seeking approval to construct and/or modify residential housing and/or emergency shelters to allow for the accommodation by person(s) with disabilities, and/or operate residential care facilities, which will serve persons with disabilities, may apply for a reasonable accommodation adjustment.
- c. **Application filing.** An adjustment request shall be filed with the Department in the form of an attachment to the project application, with appropriate supporting materials including:
 - (1) The applicant's name, address and telephone number.
 - (2) Address of the property for which the request is being made.
 - (3) The current actual use of the property and how the property will be used by the individual protected under the Acts.
 - (4) The basis for the claim that the individual is considered disabled under the Acts.
 - (5) The provision, regulation or policy from which reasonable accommodation is being requested.
 - (6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

d. Review procedure. The request shall specify the Coastal Zone Land Use Ordinance standard requested for adjustment, and document the manner in which the proposed project qualifies for the adjustment. A request for adjustment shall not be accepted for processing by the Department unless the request is within the range of adjustments prescribed by this Section. A request for adjustment shall be approved by the Director when the Director finds the following:

- (1) The housing, which is the subject of the request, will be used by an individual with a disability protected under the Acts
- (2) The request for reasonable accommodation is necessary to make specific housing available to an individual with a disability protected under the Acts.
- (3) The requested reasonable accommodation would not impose an undue financial or administrative burden on the County.
- (4) The requested reasonable accommodation would not require a fundamental alteration in the nature of County ordinances or general plan.
- (5) The requested reasonable accommodation would not waive a requirement for a land use permit building permit or encroachment permit when otherwise is required.
- (6) The requested reasonable accommodation will not result in approved uses that are otherwise prohibited by the County's ordinances and general plan.
- (7) If the Director grants, or grants with modifications, the adjustment, the adjustment shall be granted to an individual and shall not run with the land unless the Director also finds that the modification is physically integrated into the structure and cannot be easily removed or altered to comply with this Title.
- (8) The requested is limited to the minimum reasonable accommodation necessary to accommodate the needs of the individual protected under the Acts.
- (9) The reasonable accommodation will not negatively impact coastal resources.

e. Reasonable accommodation adjustment.

- (1) **Adjustments allowed.** Adjustments may include, but are not limited to:
 - i. setbacks and encroachments for ramps, handrails or other such accessibility improvements;
 - ii. hardscape additions such as widening driveways, parking areas or walkways that would not otherwise comply with landscaping or open space provisions;
 - iii. reduction of off-street parking where the disability clearly limits the number of people operating vehicles;
 - iv. tree removal; and building addition(s) necessary to afford the applicant and equal opportunity to use and enjoy a dwelling.

- (2) **Adjustments prohibited.** Adjustments may not include accommodations which would impose an undue financial or administrative burden on the County or require a fundamental alteration in the County's Ordinances or General Plan. A reasonable accommodation cannot waive a requirement for a land use permit, including a Coastal Development Permit, when one is otherwise required or result in approved uses otherwise prohibited by the County's Ordinances and General Plan.

f. Duration of reasonable accommodation.

- (1) The reasonable accommodation may continue to be used and maintained by the individual with a disability for the duration of his or her tenancy in the dwelling subject to the finding in Subsection D.7.
- (2) Within 60 days of the termination of the tenancy the reasonable accommodation shall be removed unless the Director has determined that the reasonable accommodation may remain as provided in Subsection D.7.

SECTION 2. That this project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: The local coastal program is intended to be carried out in a manner fully in conformity with the Coastal Act.

SECTION 5: This amendment shall become operative automatically, pursuant to 14 California Code of Regulations Section 13551(b)(1), upon the certification without any modifications to said amendments by the California Coastal Commission and upon acknowledgement by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification pursuant to 14 California Code of Regulations Section 13544. In the event that the California Coastal Commission recommends modifications to said amendments, the amendments with modification shall be processed in accordance with Government Code Section 65350 et seq., before final local government adoption of the amendments with modifications suggested by the Coastal Commission pursuant to 14 California Code of Regulations Section 13551(b)(2), or before the Board of Supervisors resubmits, pursuant to Public Resources Code Sections 30512 and 30513, any additional amendments to satisfy the Commission's recommended changes.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 2014, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT: None

ABSTAINING: None

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

RITA L. NEAL
County Counsel


By: Assistant County Counsel

Dated: June 2, 2014